

**Remarks:**

Reconsideration of the application, as amended herein, is respectfully requested.

Claims 13 - 16, 18 - 21, 23 - 25, 27 - 40 are presently pending in the application. Claims 13, 23, 24, 32 and 36 have been amended. Claims 1 - 12 were previously canceled. Claims 17, 22 and 26 have been canceled, herein. New claims 38 - 40 have been added.

In item 1 of the above-identified Office Action, claim 13 was objected to on the basis of an informality. The amendments made to the claims herein are believed to address the concerns raised in item 1 of the Office Action.

In item 2 of the Office Action, claims 13 - 37 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by European Patent No. EP 1096770 A2 to Bauer et al ("BAUER").

Applicants respectfully traverse the above rejections.

More particularly, Applicants' amended claim 13 recites, among other limitations:

transmitting information from the communication device to the communication partner entity indicating a trouble-free transmission of the user data from the communication partner entity to the communication

device, the information relating to a transmission quality of the user data transmitted from the communication partner entity to the communication device. [emphasis added by Applicants]

Applicants' independent claim 24 has been amended to recite, among other limitations:

a simulation information transmitted to the partner entity to simulate a trouble-free transmission of the user data from the communication partner entity, said simulation information relating to a transmission quality of the user data transmitted from the communication partner entity to the communication device.

Applicants' amended independent claim 32 recites similar limitations, among others. The amendments to the claims are supported by the specification of the instant application, and by former claims 17, 22 and 26, now canceled. **As such,** Applicants' claims require, among other things, the transmission of information relating to a transmission quality of user data to a partner entity, indicating (claim 13) or simulating (claims 24 and 32) a trouble-free transmission of the user data from the partner entity.

The foregoing limitations, among others, are not taught or suggested by the **BAUER** reference.

More particularly, the **BAUER** reference discloses a method and apparatus for notifying a far-end calling party when a near-

end calling party utilizes a hold or mute feature. In **BAUER**, the bandwidth utilization is reduced by suppressing the transmission of packets during periods of extended silences.

Pages 2 and 3 of the Office Action point to cols. 3 - 4, paragraphs [0012] - [0015] and cols. 5 - 6, paragraphs [0020] - [0025] as allegedly disclosing the transmission of information from the communication device to the partner entity indicating a trouble-free transmission of the user data, which information relates to a transmission quality of the user data transmitted from the communication partner entity to the communication device. Applicants respectfully disagree.

Rather, paragraphs [0012] - [0015] and [0020] - [0025] of **BAUER** do not teach or suggest the foregoing limitations of Applicants' claims, among other limitations. The indication of troublesome or trouble-free transmissions, as well as quality aspects of the transmission, are not taught or suggested by the **BAUER** reference. In particular, the method and apparatus of **BAUER** comprehensively suppresses the transmission of packets in dependent upon control notifications relating to the connection status (for example, "call on hold") of the call, by the far end party. This "connection status" of **BAUER** does not take into account any

consideration of the quality aspects of the call, nor would any consideration of quality aspects provide any advantage in the system of BAUER. In BAUER, packet suppression, as described in paragraphs [0010] - [0015] of BAUER, and in paragraphs [0020] - [0025] of BAUER, is based on the local terminal activity and its hold status, and not on the basis of any information relating to trouble-free communication of the user data or on the transmission quality of the user data.

Thus, the BAUER reference does not teach or suggest, among other things, the transmission of information relating to a transmission quality of user data to a partner entity, indicating a trouble-free transmission of the user data from the partner entity, as required by Applicants' independent claim 13.

Further, the BAUER reference does not provide any disclosure relating to the transmission of simulation information to simulate a trouble-free transmission, which simulation information relates to a transmission quality of transmitted user data, as required by Applicants' claims 24 and 32

For the foregoing reasons, among others, Applicants' claims are believed to be patentable over the BAUER reference cited in the Office Action.

It is accordingly believed that none of the references, whether taken alone or in any combination, teach or suggest the features of claims 13, 24 and 32. Claims 13, 24 and 32 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claims 13, 24 or 32.

In view of the foregoing, reconsideration and allowance of claims 13 - 16, 18 - 21, 23 - 25, 27 - 40 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

If an extension of time for this paper is required, petition for extension is herewith made.

Please charge any fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner Greenberg Stemmer LLP, No. 12-1099.

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Respectfully submitted,

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